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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,838	02/11/2004	Scott McIntosh	04790.002	3031

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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,838

Applicant(s)

SCOTT MCINTOSH

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 1-25 and 34-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/18/06
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 1-25 and 34- 50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/10/06. Also, claims 51-55 are withdrawn from consideration as being drawn to a nonelected invention of Group II.

2. Applicant's election with traverse of Group III in the reply filed on 9/10/06 is acknowledged. The traversal is on the ground(s) that the new amendment of the other Groups now reads on the elected class 30/380. This is not found persuasive because the other Groups have special technical features, which are independent or distinct from each other.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 33 is rejected under 35 U.S.C. 102(b) as being anticipated by Foreign patent no. JPO2000042949.

Foreign'949 discloses the invention as claimed including a hand-held power band saw (see Fig. 1), a closed loop saw blade 6, a frame having a first end 4 and a second end 5, a throat (see Fig. 2), a first wheel 3, a drive assembly 2, a handle 14 and a battery 17.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foreign patent no JPO2000042949 in view of Stelljes et al. (4,001,937).

Foreign'949 discloses the invention substantially as claimed including:

- a. Claim 26; a hand-held power band saw (see Fig. 1), a closed loop saw blade 6, a frame having a first end 4 and a second end 5, a throat (see Fig. 2), a first wheel 3, a drive assembly 2, a handle 14 and a battery 17.
- b. Claim 27; a first and second blade guides 25.
- c. Claim 29, a skirt (2-5).
- d. Claim 30, wherein the frame is fixed at a predetermined angle relative to the handle (see Fig. 3).
- e. Claim 31; a battery is coupled to the handle proximate the first end of the frame (see Fig. 2).

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Regarding claim 26, Foreign'949 doesn't show a tensioning assembly and a fence. However, Stelljes et al. teaches the use of a tensioning assembly 32 for the purpose of adjusting the pulley for alignment without dismantling the pulley mounting. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Foreign'949 by providing the tensioning assembly as taught by Stelljes et al. in order to obtain a device that adjusts the pulley for alignment without dismantling the pulley mounting.

Regarding claim 28, Stelljes et al. teaches the use of a fence 184 for the purpose of taking the thrust from the work as the blade pulls the work. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Foreign'949 by providing the fence as taught by Stelljes et al. in order to obtain a device that takes the thrust from the work as the blade pulls the work.

7. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foreign patent no JPO2000042949 in view of Judge (6,523,447).

Foreign'949 discloses the invention substantially as claimed except for a chemistry selected from a group of nickel cadmium, nickel metal hydride, lithium and lead-acid. However, Judge teaches the use of a chemistry selected from a group of nickel cadmium, nickel metal hydride, lithium and lead-acid (see col. 2, lines 54-59) for the purpose of supporting the high current and high power requirement needed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the battery of Foreign'949 by providing the chemistry selected from a group of nickel cadmium, nickel metal hydride, lithium

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and lead-acid as taught by Judge in order to obtain a device that supports the high current and high power requirement needed for a band saw.

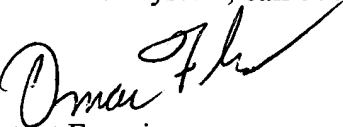
Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sacrey, Anderson, Strzalka, McCullough et al., Van Camp et al., Dean and Hayakawa et al. are cited to show related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patent Examiner
11/27/06